

THE LECOMPTON CONSTITUTION.

SPEECH

OF

HON. JAMES HARLAN,

OF IOWA.

Delivered in the United States Senate, January 25th, 1858.



James Harlan

WASHINGTON, D. C.
BUELL & BLANCHARD, PRINTERS.
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The Senate proceeded to the consideration of the motion made by Mr. DOUGLAS, to refer so much of the President's message as relates to Kansas to the Committee on Territories.

Mr. HARLAN. Mr. President, it was fully understood, as I supposed, that the Senator from Mississippi [Mr. DAVIS] modified his motion to make his bill for the increase of the army, a special order at one o'clock, so as to read half past twelve o'clock to-day, that the previous special order might not be interfered with. This discussion, however, with the disposition of the Senator to insist on the subsequent special order, coupled with his sarcastic remarks, presents it in another light. I am perfectly willing that his position, with his own explanation thus made, shall go to the country. I enter on this discussion on my own responsibility as a Senator, equal in rights with the Senator from Mississippi or any other Senator on this floor; being responsible to the people of Iowa alone for the manner of its use. I felt no special interest in the question of order raised; for I might have submitted the remarks I intend to make on the army bill with as much pertinency as is usual with the debates in the Senate, for I suppose that the passage of this bill is desired, to enable the President of the United States to enforce the Lecompton Constitution. The increase of the army to twenty-five thousand can be called for at this time, as it seems to me, for no other reason; and I may have occasion to elaborate this view before I take my seat.

I listened with deep interest, Mr. President, to the discussion of this part of the President's message on the other side of this Chamber, principally on account of the harmonious professions of attachment, by both factions of the Democracy, to the principles of the Kansas-Nebraska bill. The President and the Southern Democracy, as here represented, profess to be guided by the principles of the Kansas-Nebraska bill—that is, "non-intervention by Congress in the affairs of the Territories;" and the honorable Senator from Illinois [Mr. DOUGLAS] professes equal devotion to this principle—that the people of the Territories, like the States, "shall be left perfectly free to manage their own affairs in their own way." And yet,

sir, in practice, there is a vast difference in the result of the measures proposed.

To follow the advice of the President and those who agree with him, will secure the organization of a slave State on free soil. To adopt the policy proposed by the Senator from Illinois, will exclude Slavery from this domain as effectually as if Congress should re-enact "that neither Slavery nor involuntary servitude shall ever exist north of 36° 30' north latitude." For it is now known to us all, that an overwhelming majority of the people of Kansas are opposed to Slavery; and there is no practical difference between excluding it *directly* by an act of Congress, and excluding it indirectly by a submission of the question to the people, when we all know—when everybody knows—when the whole world knows—that if thus submitted, they would abolish it without ceremony.

The President and his supporters do not deny the right of the people of the Territory to require the submission of their Constitution to the electors at the polls, for approval or disapproval, or its propriety as a general rule of policy. But they deny its expediency in the present instance, or its possibility, without an infraction of the doctrine of "non-intervention by Congress." They claim that to *require* the people to vote for or against their fundamental law, by an act of Congress, would be as distasteful to freemen as would be a denial of that right.

And if we admit the truth of the President's assumptions, his conclusions are irresistible. If his premises are true, his position is impregnable. For it is true, sir, that if the people of a State or Territory are left perfectly free to give expression to their own will in their own way, they may act in mass conventions as a vast deliberative body; may thus originate and mature measures of public policy, or they may act through their representatives. In this country, the latter is the usual practice.

The people of the States in the modification of their Constitutions, and of the Territories in originating them, have uniformly acted through delegates. Sometimes they have reserved the right of approval or disapproval at the polls, of the whole instrument, when completed. Sometimes, however, they have clothed their dele-

gates with plenary powers. In the latter cases, the Conventions have frequently submitted either the whole instrument, or some of its specific features, about which they may have been in doubt in regard to the popular will.

In the enactment of statute laws, the people act through their representatives in the State Legislatures, and also in the Congress of the United States.

In the interpretation and application of the laws, the people act through their representatives on the tribunal of justice. Writs issued by these courts are, I believe, always in the name and by the authority "of the people," "of the State," or "of the Commonwealth," or of the United States, and not in the name or by the authority of the court itself.

In the administration of the Government, in the enforcement of the laws, State and National, the people act through their representatives in the Presidential office, and through the Governors of the States; all of whom are supposed to be guided by the will of the people, expressed in legal form.

The entire frame-work of our Government rests on the idea of obedience to the will of the people, expressed through their Representatives, in all of its departments, Legislative, Executive, and Judicial. And the practical departures are very few.

What the people do in mass meetings is usually informal and illegal. Large bodies of men, entertaining similar views, convene for the purpose of adopting resolutions and forming a platform, the whole purport of which is to endorse the official conduct of their legal representatives, or to instruct them in relation to their future official duty.

It is true also, Mr. President, that many of the most respectable courts of the country have decided, that when the Legislature of a State, on its own responsibility, submits a law to a vote of the people, for their approval or disapproval, such submission must either be treated as a surplusage, or regarded as vitiating the whole act, even though it may have been approved by the people at the polls; and this, on the ground that legislative discretion does not rest in the people at the polls, but that it rests in their representatives in legislative bodies legally convened. Hence, if the people of Kansas did in fact authorize the creation of a Constitution for a State Government, through a Convention of delegates, chosen by them for that purpose, without requiring its submission for approval at the polls, they are bound by its action. The act of the Convention is their act. "*Facit per alium, facit per se.*" A Convention thus appointed possesses plenary powers. And to suppose the instrument to be void, when thus made, because the Convention failed to do that which the people had not required it to do, is an absurdity that would not be maintained by a lawyer of respectability for a single moment.

This leads us to an examination of the supposed act of the people of Kansas, authorizing and creating this Convention. And this is necessarily preceded by the question of legal authority on the part of the people of the Territory, unauthorized by Congress, to make a Constitution for a State Government, preparatory to their admission into the Union. I do not inquire by what instrumentality it should be made; whether by the whole people in mass meeting, whether by all the electors in one body, or by delegates of the people appointed by the electors. *Have the people the power to make a Constitution by any instrumentality whatever?* This depends, I humbly conceive, on the truth or fallacy of the doctrine of squatter sovereignty itself; for, if you have conferred on the people the right to make all needful laws on all rightful subjects of legislation, or if this right exists uncreated in the people of a Territory, then they may enact a law authorizing the creation of a Constitution for a State Government, preparatory to their admission into the Union as a member of this Confederacy.

Here is the first point of divergence that I have noticed between the two factions of the Democratic party, as represented on this floor, and as they now exist in the country at large. The honorable Senator from Illinois claims, very singularly as it seems to me, that the people of Kansas had no power, no legal right, to initiate measures preparatory to the formation of a State Government. That I may do him no injustice, I will read from his recent speech delivered on this floor. In that speech, he said:

"A Territorial Legislature possesses whatever power its organic act gives it, and no more. The organic act of Arkansas provided that the legislative power should be vested in the Territorial Legislature, the same as the organic act of Kansas provides that the Legislative power and authority shall be vested in the Legislature. But what is the extent of that legislative power? It is to legislate for that Territory under the organic act, and in obedience to it."

He supports this opinion by reference to the official opinion of Attorney General Butler, in which he said, in relation to a similar act, contemplated on the part of the people of Arkansas:

"It is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to form a Constitution and State Government, or to do any other act, directly or indirectly, to create such new Government. Every such law, even though it were approved by the Governor of the Territory, would be null and void. If passed by them, notwithstanding his veto, by a vote of two-thirds of each branch, it would still be equally void." * * *

"For the reasons above stated, I am therefore of opinion that the inhabitants of that Territory have not at present, and that they cannot acquire, otherwise than by an act of Congress, the right to form such Government."

These quotations doubtless express the opinion of the Attorney General. But they should be coupled with the fact that the people of Arkansas had no power, under their organic act, to pass laws, and give them validity, unless approved by Congress; that their legislative enactments were void from the beginning, without

this approval. The honorable Senator from Illinois is at fault when he says the people of Arkansas possessed the same power under their organic act claimed for the people of Kansas under the Kansas-Nebraska bill. This will appear by reference to these laws. I read from the Statutes at Large, third volume, page 494:

"Whenever the General Assembly shall be organized, all the legislative power of the Territory shall be vested in, and exercised by, the said General Assembly.

"That so much of the act of Congress of the 4th June, 1812, entitled 'An act providing for the government of the Territory of Missouri,' as relates to the organization of a General Assembly therein, prescribes the powers and privileges thereof, the mode of election, and period of service of the members thereof, and defines the qualifications and privileges of the electors and elected, shall be in full force and operation in the Arkansas Territory," &c.

Then, what were the powers and privileges and restrictions conferred on the people of the Territory of Missouri; which act was, by this provision, extended to the Territory of Arkansas? I read from the second volume of the Statutes at Large, page 744:

"The General Assembly shall have power to make laws in all cases, both civil and criminal, for the good government of the people of the said Territory, not repugnant to or inconsistent with the Constitution and laws of the United States." * * *

"All bills passed by a majority in the House of Representatives, and by a majority in the Legislative Council, shall be referred to the Governor for his assent; but no bill or legislative act whatever shall be of any force without his approbation."

Here, then, is a marked distinction between the provision of the organic act for the people of Arkansas and that of the people of Kansas. The Governor of Arkansas could, under its organic act, exercise an absolute control over the Legislature. In Kansas, two-thirds of each branch of the Legislature can pass a law in opposition to the will of the Executive. But this organic law for Missouri proceeds to provide that—

"So much of an act entitled, 'An act further providing for the government of the Territory of Louisiana,' approved on the 3d day of March, 1805, and so much of an act entitled 'An act for erecting Louisiana into two Territories, and providing for the temporary government thereof,' approved the 23th of March, 1804, as is repugnant to this act, shall, from and after the first Monday in December next, be repealed."

The provisions of these acts, not repugnant, are, it would seem, continued in force.

In the act for the government of Louisiana, approved March 3d, 1805, I find this provision:

"The Governor shall publish throughout the said Territory all the laws which may be made as aforesaid, and shall from time to time report the same to the President of the United States, to be laid before Congress; which, if disapproved of by Congress, shall thenceforth cease and be of no effect."

I have not examined the provisions of the organic acts of all the Territories which have hitherto been admitted into the Union as States, and those that now exist, with reference to this discussion; but two years since, I did make a thorough examination of all of them; and except the Kansas-Nebraska act, I found no law, for the organization of a single Territory, which did not directly or indirectly reserve in Con-

gress the right of approval or disapproval of all laws passed by the Territorial Legislatures. At the date of the opinion of Attorney General Butler, complete and full power, it was conceded by all, existed in Congress to govern all our Territories. Congress had claimed and exercised it, from the beginning. It was so held by commentators on the Constitution. It was so held uniformly by the courts, State and National. The generic principle of plenary power in Congress to control Territorial legislation would include the specific legislation under discussion. With this power conceded in Congress to revise Territorial laws, the people of the Territories could not, in the opinion of the Attorney General, by any act of theirs, originate laws that would substitute a State Government for a Territorial form of Government. But I beg the Senate to remember that the Kansas-Nebraska bill contains strangely different features from previous acts of Congress for the government of the Territories.

In a declaratory clause of this act of 1854, it is claimed to be its "true intent and meaning, not to legislate Slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject," not to a law of Congress, but "subject only to the Constitution of the United States." If, in that phraseology, "to regulate their domestic institutions in their own way," is embraced the power to make laws, constitutional and statute, then the policy of this Government in relation to its Territories was changed; its original policy was subverted; and I deny the honorable Senator from Illinois the privilege of going back one day behind the passage of the Kansas-Nebraska act for precedents to sustain his present position. The old Territorial policy of this Government was then set aside; a new hobby was created; if you please, a new Bucephalus was harnessed; and as he now vaults over his own shadow, the Senator from Illinois, like another Alexander, may be able to mount and rein his head toward the sun. We shall see.

But, sir, if Congress did, in that act, confer on the people of the Territory of Kansas power to make all needful laws on every fit subject of legislation, the power to pass the laws referred to in this part of the President's message was included. The only question that will arise, then, for us to settle, is, whether this be a fit subject for legislation.

That this is a rightful subject of legislation, none can deny; for it has been the subject of legislation by Congress, "time out of mind." The Senator from Illinois [Mr. DOUGLAS] proposes legislation by Congress now. And the ultimate formation of a State Government is always contemplated when a Territory is organized. A Territorial Government is intended to be but a temporary organization of the people within its limits, and is expected to give place

to a more perfect and desirable form of Government as soon as the people are found to be in a condition to assume its responsibilities and to bear its burdens. This transition from a Territorial to a State Government must be effected either by revolution or under the forms of law. If, then, revolution and anarchy are not preferable to a peaceful and legal transition, this is a proper subject of legislation. And if the people of a Territory may legislate on all fit subjects of legislation, they may on this.

But, conceding the question of legal power, did the people of Kansas exercise it in the case under discussion? Did they, by their own volition, authorize the creation of the Lecompton Constitution?

This, I believe, is conceded by both factions of the Democracy. It is assumed by the President in his message, and not denied by the honorable Senator from Illinois, [Mr. DOUGLAS.] It is said that the people of Kansas, through their Territorial Legislature, enacted a law, authorizing the election of delegates to frame a Constitution; that the election was held, and the Convention organized, under the provisions of this act; and that the Lecompton Constitution is the fruit of their deliberations. This law has been recognised by the authorities in Kansas, and by the President of the United States. It is claimed to be the legal expression of the will of the people, and, it must be confessed, possesses every element of legal vitality common to any and all of the Territorial laws of Kansas; and, as such, received the hearty endorsement of the honorable Senator from Illinois, [Mr. DOUGLAS,] in his Springfield speech.

But did the people of Kansas, in the enactment of this Territorial law, authorizing the election of delegates to frame a State Constitution, or otherwise, reserve the right to ratify or reject it by a vote of electors at the polls?

Here is the principal point of divergence between the supporters of the President's views and those who oppose them on the other side of the Chamber. The first assume that plenary powers were conferred by the people of Kansas on their delegates, in the enactment of this Territorial law; that the right to approve or reject the Constitution to be framed was not reserved. And hence the people have agreed, in advance, to abide by the acts of their delegates. Here, however, the Senator from Illinois joins issue; and to his reasoning in support of his position I invite the attention of the Senate and the country.

He does not claim that this right of ratification is reserved by the people in the Territorial law authorizing the election of delegates, but that the Kansas-Nebraska bill is susceptible of no other legitimate interpretation; that it provides in a declaratory clause "that it is the true intent and meaning of this act neither to legislate Slavery into this Territory, nor to legislate it therefrom, but to leave the people there-

of perfectly free to regulate their own domestic institutions in their own way."

This regulation "of their own domestic institutions" is supposed to include the power to create a Constitution and enact laws. How else are they to be regulated, if not by constitutional and legal provisions? But I humbly submit that it does not seem to me to require, necessarily, the submission of either to the approval of the electors at the polls. It does not say so in so many words. It does not say that "the people thereof are to be left perfectly free to regulate their own domestic institutions in their own way by a vote at the polls." Nor is such submission necessarily implied; for we have shown that, in a free exercise of their own will, the people may choose to act by representatives—may choose to clothe them with plenary powers. Nor is such a necessity consistent with the language used. The language used is, "but to leave the people perfectly free to regulate their own domestic institutions in their own way" Then they must be left free to choose the means by which this is to be done; and they may choose delegates, and clothe them with plenary powers for this purpose.

But yielding that the interpretation of the Kansas Nebraska act claimed by the Senator is the only fair one, it does not even tend to establish the conclusion sought. It would, on that hypothesis, be conclusive as to the will of Congress, and, if you choose, of the will of the people of the organized States, expressed in legal form by their representatives in Congress, but not of the people of a Territory outside of these States. The Kansas-Nebraska bill was enacted into a law on the supposition that the will of Congress might be different from the will of the people of the Territory—that it might be even in conflict with it, and in antagonism with their best interests; and hence the necessity of the Kansas bill to set them free—to emancipate them—to enable them to differ with Congress. Hence we are not to inquire what was the will of Congress, as expressed on this or any other fit subject of legislation, but, what did the people of Kansas decree? They put forth the creative act when they authorized the election of delegates. What was their decision?

But it is argued, again, that this power of final ratification must have been reserved by the people, because the President assumed that the Constitution would be submitted, as is clearly set forth in his instructions to Governor Walker; because Governor Walker, in his inaugural address and numerous speeches, pledged himself that it should be submitted; and because Mr. Calhoun and others, during their candidacy for seats in this Convention, were "pledged in writing" to exert their utmost influence to secure this result.

But this "inaugural address" of Governor Walker was not even an official paper. It was not required of him in the discharge of any

official duty. It was simply a fugitive letter, written for the newspapers, and of no more validity than his stump speeches.

But clothe this letter, and these stump speeches, and this pledge "in writing" of General Calhoun, with all the pomp and circumstance of *official* acts, and they will not tend to sustain the conclusion. The President's instructions, the Governor's newspaper correspondence and stump speeches, and Calhoun's pledges in writing, may be conclusive as to their purpose, but they do not even tend to prove that the *people of Kansas* had reserved the right to vote for and against the adoption of the Lecompton Constitution. You must look for an expression of the will of the people in *their own official acts*. When impartially considered, these considerations prove the converse. Whence the necessity of promises and pledges to submit the Constitution to a vote of the people, if the people had in fact reserved the right to ratify or reject it at the polls? Pledges to secure this for the people imply that the people had parted with it, or lost the power to exercise it, and that this right was to be created anew.

It is contended, however, that, under all of these circumstances, the people of Kansas did expect, and they had a right to expect, that this instrument would be submitted to them for approval. But this is a mere assumption, without the slightest support in facts as they really existed. The people did not expect the submission of the Lecompton Constitution to a fair vote of the electors at the polls; and hence these pledges of the President, and of the Governor, and of Calhoun and his accomplices, to delude them into the recognition of its legality, by voting under the Territorial law authorizing its formation. And the people had no right to expect its submission, these solemn pledges notwithstanding; for no previous pledges of this Government and its officials in Kansas, to secure the Free State men in the enjoyment of their just rights, had ever been redeemed. To confide in the pledges their officials, they had learned by sad experience, was to lean on a broken reed, by which they had been uniformly pierced; and the result has not disappointed their expectation.

But the honorable Senator from Michigan, [Mr. STUART,] in his able speech made in the Senate a few days since, argued, if I understood him correctly, that the Lecompton Constitution should be repudiated by Congress, in consequence of the gross frauds perpetrated in the execution of the census and registry laws, preceding the election of delegates, by which a fair expression of the will of the people at that election was defeated. That I may do him no injustice, I quote from his speech his quotation from Governor Walker's letter to the President of the United States:

"That Convention had vital, not technical defects, in the very substance of its organization under the Territo-

rial law, which could only be cured, in my judgment, as set forth in my inaugural and other addresses, by the submission of the Constitution for ratification or rejection by the people.

"On reference to the Territorial law under which the Convention was assembled, thirty-four regularly-organized counties were named as election districts for delegates to the Convention. In each and all of these counties, it was required by law that a census should be taken and the voters registered; and when this was completed, the delegates to the Convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give and (by no fault of their own) could not give a solitary vote for delegates to the Convention. This result was superinduced by the fact that the Territorial Legislature appointed all the Sheriffs and Probate Judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and therefore they were entirely disfranchised, and could not and did not give a single vote at the election for delegates to the Constitutional Convention."

Again :

"Nor could it be said these counties acquiesced; for, wherever they endeavored, by a subsequent census or registry of their own, to supply this defect, occasioned by the previous neglect of the Territorial officers the delegates thus chosen were rejected by this Convention. I repeat, that in nineteen counties out of thirty-four there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the Convention, in any one of these counties. Surely, then, it cannot be said that such a Convention, chosen by scarcely more than one-tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a Constitution upon them without their consent. These nineteen counties in which there was no census constituted a *majority* of the counties of the Territory, and these fifteen counties in which there was no registry gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton Constitution on the 7th of November last."

From this statement of the Governor, endorsed by the honorable Senator, it appears that in half of the counties no census was taken, and that, in the appointment of delegates based on the census, the people of these counties were absolutely excluded from a representation, so that the legal right to vote would have been unavailing; that, in fifteen of these counties, the names of voters were not registered, and on that account the electors were incapable of voting; that this legal inability was placed beyond cavil by the unceremonious exclusion of delegates from seats in this Convention, elected, in a few of these proscribed districts, in the absence of a census and registry; that a majority of the electors in the Territory were thus deprived of the elective franchise; that this did not result from neglect or indifference on the part of the people, but from the culpable, not to say criminal, refusal of the officers of the Territory to carry out the provisions of the law; and, consequently, that this Convention represented a *minority* only of the people.

And the Senator strongly intimates—what the whole country knows, and what I in my

place here, on my responsibility as a Senator, distinctly charge—that this criminal neglect was by *design*, and for the *purpose* of excluding a fair expression of the will of the people; and that the officers of this Government, including the President, with a full knowledge of all the facts, have openly participated in the consummation of this open and flagrant robbing of the people of their dearest rights as American citizens—the right to select their own rulers and to make their own laws; and that the acquiescence of the people has been coerced by the President by the use of Federal bayonets! To suppose the contrary, would be to deny the President and his officers ordinary intelligence.

The question then arises, whether the people of that Territory can be robbed of their original right—their conceded right under the Kansas-Nebraska bill—to give expression to their will in the election of their delegates by a fraudulent execution of the Territorial laws—that which was known at the time to be fraudulent, and which, it is believed, the President of the United States knew to be fraudulent, when he quartered troops around the room in which the delegates convened, for the purpose of protecting them from the very result so graphically indicated the other day by the honorable Senator from California, [Mr. BRODERICK,] when he said, that if the people of that Territory, being thus intentionally robbed of their rights as American citizens, had risen in their might, and flogged these delegates from the Territory, he would have approved the act; and more—he would have applauded them, had they maimed them, and sent them away in disgrace.

I agree with the honorable Senator from Michigan, and those who act with him, (and there are millions that do in the country at large,) that this Lecompton Constitution has not been framed in pursuance of a fair expression of the will of the people; that it is the result of open and palpable robbery and physical coercion, that never could have been successfully carried out, unaided by this Government. But do they conclude that, on this account, the Lecompton Constitution is void? If so, what do they say of the whole body of the Kansas laws—are they *void*, or are they *valid*?

Nothing has transpired, in connection with the creation of this Lecompton Constitution, that more than equals the enormities perpetrated at the first Territorial elections. Do you tell me that, at the election of delegates to this Convention, the majority of the electors were unblushingly robbed of the legal power to vote? I reply that, at the election of the first Territorial Legislature, the legal voters were driven from the polls by intimidation and violence, whenever the success of this legal robbery required it; that a thousand armed strangers surrounded and held the polls at Lawrence alone; and it is now claimed that every precinct, save one, was similarly violated. Do you tell me that this Convention has been preserved

from violence and dispersion by an outraged people, only by the troops of the Federal Government? I reply, that the Territorial Legislature was maintained in power by the same means. Do you tell me that this Constitution contains provisions repugnant to the will of the people? I reply, that the laws of the Territorial Legislature were not only repugnant to the will of the people, but denounced by the present Secretary of State, then a Senator on this floor, and other distinguished Senators, as a disgrace to the age in which we live. Do you tell me that the provisions of this Constitution can never be enforced among an unwilling people, only at the cost of violence and bloodshed? I reply, that the whole body of the Kansas laws have been enforced at this fearful cost, from the beginning up to the present hour. The people of Kansas have been compelled to submit to laws which they never made, and to officers whom they never elected. This grinding tyranny has been open, continuous, unmitigated, and unblushing, from the commencement to the present. The Lecompton outrage is no more flagrant than those by which it was preceded. The last crop of fruit is no more bitter than the first. If the latter must be treated as void *ab initio*, in consequence of these terrible political wrongs, why not the first? If the Lecompton Constitution may be set aside on this account, why not the whole body of the Kansas laws?

The Senator from Illinois [Mr. DOUGLAS] need not repeat his former apology for their continuation, made when he was in doubt as to the violence connected with their origin. He need not tell the country “that, under these laws, contracts had been made, marriages contracted and solemnized, births registered, and estates distributed,” that he would not vitiate all these by the repeal of these laws, and thus produce anarchy and confusion, with legal adultery and bastardy; for, when uninfluenced by the heat of debate, and free from party zeal, he will not pretend for a moment that contracts made under a valid law can be vitiated by its repeal; and if these laws were like the Lecompton Constitution, void from the beginning, the sooner they are swept from the statute books the better; for in that case no legal right could accrue under them. Hence, I entreat Senators not to spend their precious time in clipping the leaves of this *upas* which is poisoning the whole atmosphere with its malaria, but to heave it out by the roots, and cast its body and branches into the furnace; for the Lecompton Constitution cannot be repudiated on any principle not equally applicable to the entire Kansas code. If Congress can intervene now, it could and ought to have intervened then; and thus return to the doctrine of the fathers of the Republic—that it is the duty of Congress, as the representative of the whole country, to guard and protect, by legal enactments, the rights of the people of the United States residing in the Territories.

I agree with the Senator from Illinois and the Northern Democracy, that this Constitution should be repudiated by Congress; but I regret that this is not asked on the true ground—the constitutional duty of Congress to make all needful rules and regulations for the Territories; because it places the Northern Democracy in an attitude of humiliation. The whole burden of their complaint against the President and his Southern supporters is the refusal to submit the Leecompton Constitution to a vote of the people. Had this been done, we are told that the Democracy, North and South, would have been a unit. And the President is admonished, in threatening language, that if the harmony of the party is to be destroyed by a refusal to carry out his own instructions and the pledges of the leaders of the party, let the responsibility be on his own head.

But what is the extent of the boon attempted to be wrested from the unwilling hand of the President, for the people of Kansas, by the Northern Democracy? *A negative right only!* The right to withhold their assent from constitutions and laws! The naked right of denial! At the polls, the people can do nothing more. They cannot there deliberate, modify, and mature measures of policy.

It is not a bold and manly contest, like that of the Commons of England with the Crown, for constitutional liberty; but it is a contest with the President and his supporters, for the power to *veto* laws enacted by usurpers and tyrants. By their arguments we are carried back thousands of years in the history of free Governments, to the period when the plebeian orders were engaged in a similar contest with those of senatorial rank, in imperial Rome. In that contest, the plebeians did indeed achieve a great triumph when they acquired the right, in the person of their tribunes, to sit at the feet of Senators, and write “*veto*” on Roman laws. This was certainly one step towards their emancipation. But does this, in the opinion of the Northern Democracy, fill the whole measure of the liberty of American freemen? to choose between the law proposed and *no law*? to decide between the Constitution submitted and *no Constitution*? I had supposed that in this country the people possessed the right, in the persons of their representatives, to march boldly into the “Senate Chamber” itself, and there take seats side by side with the Ciceros and Caesars of that assembly; that they had the right not only to object to the passage of a bad law, but had the right boldly to step forward and make their own laws. Yet the whole Northern Democracy, led by the honorable Senator from Illinois, the honorable Senator from Michigan, and others, stand here begging the President and Congress to allow the people of Kansas to *veto* a Constitution dictated to her—not the right by their legally-constituted delegates, fairly elected, to *make* a Constitution.

Here, then, the Democracy and the Republi-

cans differ. If you have clothed the people of Kansas with power to make all proper laws on all needful subjects of legislation, I for one claim that they shall have the right to make them—not a naked right to veto laws dictated by another body—that they shall not be reduced to the naked and narrow privilege of accepting a Constitution proposed by dictation; of accepting laws proposed by an illegal body; of accepting officers nominated by those without the power to nominate. I claim for them all the rights of American citizens, which include the right both to make their laws and to elect their rulers.

But even this pitiful privilege of opposing a law after it had been dictated for their acceptance, is denied the people of Kansas on this floor, and is denied them in the President's message; he, as we must all believe, having a full knowledge of all the facts to which I have attempted to direct the attention of the Senate. They are to be denied that privilege, as I shall now claim, because it comes in direct conflict with the real meaning and original intent of the Kansas bill; that true meaning and intent being, when correctly understood, to compel the people of Kansas, by strategy or by force, to submit to the organization of a slave State; and to that particular feature of the case I ask leave to direct the attention of the Senate and country.

That it was the original design of the Southern Democracy to organize a slave State in the Territory of Kansas is clear to my mind from the facts to which I shall now allude. The first is the organization of two Territorial Governments by the same act of Congress, and that in the absence of a population requiring it. For it was stated, only a few days since, by the honorable Senator from Illinois, in his great speech on this subject, that at the time of the passage of this bill there were not one hundred American citizens within the limits of both the Territories of Nebraska and Kansas. Then I inquire, whence the necessity for the organization of two Territorial Governments in one district of country by the same act of Congress? This never had happened previously in the legislative history of this country. No Senator can point me to a precedent. These two Governments within the same Territory were organized at a time when, in the opinion of the honorable Senator from Texas, [Mr. HOUSTON,] and the honorable Senator from Tennessee, [Mr. BELL,] there was no necessity for one, with the enormous additional expense of about one hundred thousand dollars annually. These Territories are not separated from each other by a range of mountains, not by an impassable desert, not by a morass, not by a lake or by a river, not even by a range of hills. The line between these two Territories was first drawn by your astronomer on the heavens, by the position of the stars, and dropped down on the bosom of that beautiful prairie country. Why was this? Can it be explained on any other hypothesis than a de-

sign to favor the organization of a Government adapted to the wishes of the people of one part of this Confederacy? This inference is strengthened by the position of that line, south of a projection of the northern line of the State of Missouri, rendering it improbable, as it was then believed, that emigrants would find their way south of that line. This inference is strengthened also by the tone of the Southern press and Southern statesmen. I ask the Secretary to read from this letter, addressed by the honorable Senator from Virginia [Mr. MASON] to the editor of the *South*.

The Secretary read it, as follows :

"At the time the law passed organizing the Territorial Government, there were few with whom I conversed who did not believe that the future State would take its place with those recognising and cherishing the condition of African Slavery. There was at that time certainly every reason to believe why this should be so, and none why it should not. The State of Missouri, bordering its eastern frontier, was a slaveholding State, holding at that time nearly a hundred thousand slaves, and these were chiefly held in border counties.

"The State of Arkansas, adjacent to the Territory on the south, was likewise a slaveholding State. The soil and climate of Kansas were well adapted to those valuable products, chiefly hemp and tobacco, which gave value to slave labor in Missouri. The proximity of its population, with the attractions of new, fertile, and cheap land, I believed, would lead the slaveholders in Missouri to diffuse themselves speedily over Kansas, and the prohibitory line of 36° 30' being obliterated, there was no reason why they should not. I had no fear of fair competition in such appropriation of the new Territory, from any quarter. Unfair competition I did not look to.

"What may yet be the result as to the condition of Kansas, notwithstanding the extraordinary and unscrupulous efforts of Northern Abolitionists to force a population there, I cannot undertake to say. Nor will I allude in this place to the new and unexpected aspect, now exhibited, of affairs in that Territory, with so much propriety reprehended in the columns of the *South*. Whatever may be the information of others, I certainly am not sufficiently informed of the existing state of things in Kansas, to form a clear opinion one way or the other; yet I will venture to say this much, that if African Slavery be ultimately excluded from Kansas, it will be effected by the numerical force of organized majorities, operating against the usual laws which govern emigration, and will present a new and most instructive lesson to the Southern States."

Mr. HARLAN. We learn, Mr. President, from the letter of the honorable Senator, what were the expectations of the Democratic party in the passage of this bill; that, following the natural laws of emigration, the people of the free States would flow down from New England, New York, and the Northwestern States, and settle in Nebraska, and that perchance that might become a free State; but that emigration from Delaware, Maryland, North Carolina, Virginia, Kentucky, Tennessee, and Missouri, would flow through the latter State, and up the Missouri river, and occupy the Territory of Kansas, and thus control its political institutions. This explains the anomalous organization of two Territorial Governments, with their peculiar boundaries, at the same time, in advance of a population requiring it. This also explains the subsequent acts of the President of the United States, and the inaction of Congress, when that Territory was invaded and overpowered by armed bands of men from the Southern States. This explains the persistence of the

President and his supporters in maintaining in power these usurpers—the sanction and enforcement of its pretended laws, and the arrest and punishment of many of its best and most patriotic citizens, under a charge of constructive treason.

This explains the appointment to office of the worst men that ever disgraced its soil; and the removal from office of its Governors, whenever they manifested a disposition to show the Free State men even-handed justice. Thus, the first Governor, and the second Governor, and the third Governor, and the fourth Governor, fell by the Executive guillotine. As soon as it was understood that Governor Walker, whose official conduct has been criticised here and in the Executive mansion, had pledged himself to the people of that Territory that they should be permitted to enjoy the naked right of objecting to a Constitution framed by a body of men whom he has since declared to have been illegally chosen, in violation of every principle of justice—for promising to exert the utmost of his influence to secure them at least a hearing at the polls, he was denounced by the Democracy of no less than two of the Southern States of this Union. When it was known he had rejected a copy of a Cincinnati Directory, returned as a poll-book from one of the precincts of Johnson county, it was well understood all over the country that his doom was sealed; because the rejection of that pretended return gave the Free State men a majority of the members of the Legislature. Can any one account for the mysterious removal of Secretary Stanton on any other ground? Senators here will not require me to state the reasons assigned on this floor for that removal? Removed for what? What has he done? Does the country at large know why he was removed? There was a reason; and it is known to Senators here, and none others.

Whenever the officials of that Territory have been disposed to show even-handed justice to the Free State men, it has uniformly occasioned their official death, without one solitary exception. This can be accounted for only by the admission that it was the original design and intention to organize a slave State in that Territory; to secure it through what is denominated the natural laws of emigration, if it could be thus effected; and if not, then by strategy; and if not in this way, then by open force, to be used by the President in the appointments of the army. Hence it is that the people of that Territory have been deprived of the right of voting, of exercising this mere negative power of refusing their assent to the Lecompton Constitution. And, although the Northern Democracy are now on their knees, begging the privilege for their brethren in Kansas to vote for or against their fundamental laws, they are destined to experience the deep humiliation of a denial.

But this is not the end of the humiliation the

Northern Democracy is destined to suffer—and that right speedily—at the hand of their Southern allies. They will be required to yield their interpretation of the Kansas-Nebraska bill in its whole length and breadth.

The Democracy of the North claim it to be the true intent and meaning of the Kansas bill, that the people of the Territories may either exclude or establish Slavery, at their own discretion. Not so with the Democracy of the South. They claim that the title to slave property must be placed on the same footing with the title to other species of property. They claim it to have been thus decided by the judges of the Supreme Court in the Dred Scott case, in which Justice Daniel says:

“The only private property which the Constitution has specifically recognised, and has imposed it as a direct obligation, both on the States and the Federal Government, to protect and enforce, is the property of the master in his slave; no other right of property is placed by the Constitution upon the same high grounds, nor shielded by a similar guarantee.”

They do not admit that the people of the Territory can at any time vote Slavery from its limits, either preceding or at the time of the formation of a State Constitution. They claim that the title to slave property is like the title to all other property—that for this the same footing shall be yielded that Free State men claim for their property. Again, they claim it to be a violation of their constitutional right, not to allow them with their slaves an equal enjoyment of the public domain, purchased with the common blood and treasure of the nation. Grant the latter proposition, and Slavery will be carried by it into Iowa as readily as into the Territories. By this assumption, you carry Slavery into Illinois, you carry it into Minnesota, you carry it into Wisconsin, you take it into every State of the Union in which there is one foot of the public domain. The principle will hold good for an acre, that will hold good for fifty millions of acres. Hence, if it is a violation of the constitutional rights of our Southern brethren to deny them the privilege of going with their slaves into the Territories, it is an equal violation of their rights to exclude their property from the States containing public domain procured by the use of the common blood and treasure of the nation. If the reason is good for a Territory, it is good for a State.

But, again, concede the truth of the second proposition, and slave property may be carried into all the remaining States of the Union with impunity. What, then, is the nature of the title by which other private property is held?

In this country, it is held to be an original right. It is not created by legislative enactments. It is a right that necessarily attaches to our humanity. It has its foundation, we are told by legal casuists, in an intrinsic faculty of the mind, sometimes denominated the possessory principle, or the universal desire to acquire and possess, which is manifested in childhood, in youth, in mature manhood, and old age; among

the savage, the civilized, and the enlightened; among heathens and Christians; in every country and every age of the world. Its gratification is admitted, by the common sense of mankind, to be innocent and laudable. Hence the provision in the Constitutions of all the States of this Union, and of the United States itself, for the protection of the inviolability of contracts, by which property is acquired and held, and against its subversion, even for the public use, without just compensation. These provisions are usually found in the bill of rights, and are simply declaratory. They do not assume to originate the right to the enjoyment of private property, but declare it as an original principle, existing anterior to the enactment of laws and the establishment of constitutional forms of Government. And it was an alleged violation of this right to private property that originated our struggle for independence; it was for its protection that the Revolutionary war was fought. The phraseology of the times was, “that taxation and representation were inseparable;” that is, that private property should not be taken from the citizen, without his consent.

If this be the admitted law of title to private property, then my title to my horse cannot be vitiated by the votes of my neighbors and countrymen. It cannot be changed by majorities. If their necessities are sufficient to justify the violence, on the principle of the right of self-preservation, they may take him by coercion; not by any right, but from necessity; and, in that case, must return a just compensation.

This principle is clearly announced in the Lecompton Constitution. It is declared in that instrument that—

“The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase, is the same and is as inviolable as the right of the owner of any property whatever.”

Is that assented to by statesmen from the Southern States, or do they deny it? The argument is rung in our ears day by day, not only on the floor of Congress, but by the newspaper press throughout the South, that the title to slave property is like the title to all other property—that it is superior to Constitutions and laws; because, as they would lead us to believe, it has its foundation in a constitutional principle—not in a constitutional enactment—because it has its foundation in a principle of the human mind itself.

Hence, if the right to property in slaves is placed on the same basis with the title to other property, it cannot be vitiated by votes or by legislation. In that case, Slavery is not a question of mere indifference, to be determined by accidental majorities, like different systems of common schools, revenue laws, or banking. The right becomes original, elementary, and inviolable.

If this be true, as claimed by the Southern Democracy, by what authority do you discriminate against it in the Kansas-Nebraska bill?

Whence your authority for saying that it is the true intent of this bill neither to legislate *Slavery* into the Territory, nor to exclude it therefrom, but to leave the people perfectly free to do this or that? You do not thus provide in relation to any other kind of property; then why do you assert the right of the people to confiscate or annihilate title to property in slaves, and thus destroy the equality of the States by discriminating against the property of the South? If the law of title to slave property, as claimed by Southern statesmen, is correct, then the alleged principles of the Kansas-Nebraska bill are wrong, and its discrimination unjust. If Slavery is right, all the votes of all the squatter sovereigns on earth cannot make it wrong; and if wrong, they can never make it right.

This principle of the inviolability of private property has been recognised by the philosopher and the historian, as well as by your constitutional law-makers in every State of this Union, as well as by your revolutionary fathers in the commencement of the struggle for independence; and on which, in fact, the revolutionary war was fought to a successful conclusion. The right of private property attaches to man; it is part of his mind; it is involved in the idea of his personal manhood; it is recognised as a principle that may be protected by laws and Constitutions, and which cannot be annihilated by either. If this be true, and the title to slave property must be placed on the same footing with the title to every other species of property, then that title becomes sacred and inviolable everywhere; not only in the slave States, but in the Territories, and in every State of this Union. Admit the truth of the premises, and the conclusion is irresistible. If it be true that the title to private property cannot be violated without an act of tyranny practiced by the Government on its people, and that the title to slave property must be placed and maintained on the same basis, then it becomes inviolable, and can be maintained everywhere. This doctrine of the Northern Democracy (for they seem to have acceded to it in this discussion) carries Slavery with it everywhere, with the approval of that party, North and South, and with the dissent only of the Republicans of this country, so far as they seem willing to give expression to an opinion.

Here, then, the Northern Democracy and the Republicans differ as widely as the poles. The Republicans maintain that there can be no such thing as property held or enjoyed by a human being so as to vitiate or annihilate the rights of person, and that the rights of property are valid only so far as they can be held and enjoyed consistently with the enjoyment of the rights of person. Hence they come to the conclusion that no vote, either by large or small communities, can make Slavery right or wrong. If Slavery is in itself wrong, if the title be a bad title, no number of votes can ever make it good, because its

rightfulness or wrongfulness depends on an original principle, a constitutional right, which cannot be thus created or thus annihilated. It thus occupies the same basis side by side with the right of life. Who pretends that if one man sacrifices, without cause, the life of another, and all his neighbors, by their votes, approve the act, it will change the legal character of the murder? It only makes the participants parties to the crime. If they lend their assent in advance, they are *particeps criminis* in advance. If they lend their sanction after its commission, they are parties to the crime after the act. If Slavery is right, no people have a right to annihilate it by a vote; if it is wrong, it cannot be made right by a vote. Such an assumption was turned into ridicule three thousand years ago, by the Greek general, who, when told by his countrymen that they had just had an election, at which they had created ten generals, responded—"Why did not the people at the same time vote their donkeys into horses, and enrich the State?" It involves an absurdity on its very face.

It may be inquired here whether I admit that there can be such a thing as property in a slave, in a slave State? I answer, that it may be asserted and maintained, but not by virtue of any constitutional right, or of any provision within the Constitution of the United States. The majority have the physical power to subject the minority to their control. The stronger race have the physical power to reduce the weaker to subjugation, and they may be organized and existing as a political sovereignty, so that no one outside of that organization can have a right to interfere, and no one within its limits have the power to make a successful resistance. Slavery exists in the slave States by virtue of the law of force, set up and maintained by majorities over minorities, by the dominant race over the weaker, in violation of the rights of person of the weaker race. I dissent, to some extent, from the casual statement made by the Senator from New Hampshire, [Mr. HALE,] that there is even a qualified right of property in man.

You may have a right to his labor. The labor of men may be bought and sold. Hence it may be the rightful subject of property. I may rightfully buy the lawyer's learning, the physician's skill, the soldier's courage, the author's genius, the laborer's strength of muscle. I may buy even the wisdom of your statesmen. But it can be held and enjoyed only in harmony with the personal rights of each. Whatever I may buy and hold, consistent with the enjoyment of personal rights on the part of the person who sells his labor, is the fit and legal subject of property, and nothing more. The Constitution nowhere recognises property in man, but everywhere alludes to the African as a *person*. In the first article you will find the following provision:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons."

"Three-fifths of all other persons." Here Africans are claimed to be persons. They are claimed even by the authority of the slaveholding States to be persons, for they have representation in the other branch of Congress, based alone on their character as persons. The next provision alluding to this subject is:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

Here, again, "persons" are to be "delivered up"—to whom? To whom the labor may be *due*—that is, to whom it may be *owing*; for whom, by a direct or implied contract, the individual has agreed to perform labor. This class of people are alluded to only as persons capable of making contracts for labor, and from whom labor may be due—from whom it may be owing on contract, either express or implied. The only other clause in the Constitution alluding to this class of people is found in the ninth section of the same article:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each."

Here the migration of "persons" is not to be prohibited before 1808. But a tax may be levied on each. Each what? Each individual piece of property? No: for "each person." Then this class of people, thus held to service in the States tolerating Slavery, is alluded to by the Constitution, in each and every provision, as persons, and not as property. It thus harmonizes completely and fully with the view of the case I have endeavored to present. If they are persons, and not simply *property*, in such a sense as to violate their rights of persons, then to reduce them to the condition of property is a violation of a principle as old and as sacred as the right of property itself. A man's right to the use of himself, to the use of his own will, and his own body, and his own intellect, and his own conscience, and his own moral emotions, is as old as the right of property; and, by the common consent of mankind, even more sacred, because, wherever these two come in necessary conflict, the right to property must give way before the right to person.

But the most alarming feature of this claim is, that the law of force set up in some of the States of the Union, on a subject over which the Congress of the United States has no control, thus becomes the law of the land. Yes, if the people within but one State of the Union set up and maintain the law of the stronger, and under it claim the right to hold in subju-

gation the weaker race, or the minority, it is claimed here that that law of power, without foundation either in the principles or the language of the Constitution, instantly becomes the law of the whole country, or at least the law of the whole country outside of the organized States. On that principle, if every State of the Union were to abolish Slavery, with the exception of the small State of Florida alone, with a population, I believe, of less than two hundred thousand, and the strong race there should reduce their brethren of the weaker race to the condition of property, the very moment they overturned this constitutional principle within their limits, it is overturned wherever the flag of this Union floats; because the law of force, the law of power, by which Napoleon carries on his Government—the law of power, by which tyrants always rule—has been set up in one State, and is there enforced, by the strong hand of a majority, or by the dominant race, though a minority, it thence necessarily becomes the law of the country, the law of the United States within all her Territories, to the exclusion of the use of the very same law by the people of these respective localities. Why, it is claimed now that the law of force, the law of majorities, the law of the stronger, cannot be used in Kansas against Slavery. It can be set up in Kansas by being used and established in Florida, or in Maryland, or in Virginia, or in any State of this Union two thousand miles away; but the law of force, within the limits of the Territory itself, cannot be set up, it is claimed, without a violation of the principles of the Constitution. The law of force, maintained in the slave States, has become the law of the land; it attaches to all your soil; it goes everywhere. Wherever the stars and stripes of your flag are seen, there the law of force is seen, because some one State of this Union has set it up and maintains it.

It is to this humiliating position that the Northern Democracy are now required to bow. They are not only required to stand on their knees and beg the President for the privilege of casting a negative vote in relation to the Constitution of a new State, but they are required to submit to the law of force in all the Territories of this Union. And, indeed, if that law of power is set up and maintained in any one State this Union, by an irresistible deduction, it may go into all the States; if men be property, as such, by virtue of constitutional principles anywhere, they are property everywhere, and may be held everywhere.

Here, then, is the difference between the freemen of the North and our brethren of the South. There may be a necessity pressing on them to continue the institutions under which they have lived, to maintain their rule over the inferior race. That necessity, however, does not exist in Kansas; it does not exist in any of the Territories of this Union. If with them the law of force must be maintained in con-

sequence of the law of necessity, growing out of the circumstances by which they are surrounded, it ought not to be claimed by them that we are compelled, on that account, to receive and sustain the same law, when we are not pressed by the same necessity. There is no necessity for the freemen of the North to hold men, women, and children, as property. They have been able, thus far, to manage all their domestic affairs without buying and selling their people. If that necessity exists within the limits of one of the States of this Union, let the people thereof be the judge; let them control its destiny; but where that necessity does not exist, we maintain that the law of force shall not be set up and maintained.

This brings me, in conclusion, to a consideration of the circumstances by which I am now surrounded. I know that the views I have expressed are distasteful to a majority of the Senate. Their expression is listened to with reluctance, when arising out of questions fairly before the Senate, and made the special order for a particular hour. An adverse public opinion has been set up and maintained by our Southern brethren—I will, though with respect, give it utterance—a tyranny of public opinion, so that not one of your officers here in this Chamber dare give utterance to an opinion in opposition to the dominant party, without a sacrifice of his station. Not one of them can do so in the other Chamber. To give utterance to his opinions, inborn in the soul and cultivated in the free States of the North, where he has been reared, would be the price of his position in either branch of Congress. This is true in the Executive Departments of the Government. All the clerks and all the heads of Departments, from the lowest to the Secretary of State himself, know that the price of giving utterance to the opinions and sentiments of the Northern people, would be to sacrifice position.

This is not only true in Congress and the Executive Departments, but it is true of the super-

intendents, artisans, and laborers, on your public buildings, in your public gardens, on your aqueduct, in your navy yard; it is true everywhere within the limits of this District. It is true, also, in relation to the learned professions. Not a lawyer in your city dare give utterance, although he entertain them as candidly and honestly as I do, to the opinions I have expressed, without the sacrifice of his professional standing. No physician dare do so. If a physician be called in to tie up the bleeding head of a wounded Senator, stricken down at his desk for a free utterance of his opinions, he must instantly become security in the criminal court for the assailant, in order to preserve his professional interest. It is true, also, in all the walks of life. Your shop-keepers, your merchants, your artisans, your mechanics, all know that their success in their calling here depends on their silence or their acquiescence in the views of the dominant party. There is no place in this capital, outside of this Chamber and the other House, where freedom of speech is tolerated; and even here, at a terrible peril; even here, at the possible sacrifice of his health and his life. The leaders of the dominant party seem to be impressed with the consciousness that title to slave property will not bear analysis; will not bear the scrutiny of enlightened reason; that it will go down before the force of an enlightened investigation—they seem to be conscious of the truths to which I have given utterance; that title to slave property is set up and maintained alone by virtue of the law of force, by virtue of the law of physical power, and can be maintained in no other way.

I had intended to refer to that feature of the decision of the Supreme Court of the United States bearing on this subject; but I have already spoken longer than I intended. Thanking Senators here for their kindness in giving me the attention I have enjoyed, I yield the floor.

WASHINGTON, D. C.
BUELL & BLANCHARD, PRINTERS.
1858.